1945. **File No.** 0 Matadors/45

Legal department

A BRANCH

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**Subject:—**

Opinions under the Matadors Act

1887

**File No.** 0 Matadors /45-

Gen. 194 e.

419-A

# C O N T E N T S.

Legal Department File No. O. Matadors/1945

| Sr.No. | R.I./O.No. | Subject | Pages |
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| | | Opinions under the Matadors Act. 1857. | |
| 1. | 43,3<br>6-7-45 | Sec. 22.<br>Question whether the power to appoint includes power to remove. | 1-2 |

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Office of the R.L.A.

It appears that one Mr. Ibrahim Golamali, sole representative matadar of Jamiatpur, was unable to serve in person or to produce or-to-produce a fit person to be his deputy. Consequently in exercise of powers vested under section 22 of the Matadars Act, 1887, read with section 26 the Collector appointed a deputy on behalf of Government for the lifetime of the sole representative matadar. The sole representative matadar desires now to serve in person and has requested the Collector to remove the deputy from office. The Matdars Act contains no express provision authorising the Collector to remove a deputy during the term of office for which he is appointed. The Collector of Ahmedabad however appears to be of the view that as the power of appointment presupposes the power of removal also and as there is nothing in the Matdars Act providing that the deputy cannot be removed by the Collector, it may be assumed that the Collector who has the power to appoint the deputies has also the power to remove them for good and val-id reasons. The M.L.A. is requested to advises whether the view taken by the Collector of Ahmedabad is correct.

2. It is true that under section 16 of the Bombay General Clauses Act, 1904 power to appoint includes power to suspend or dismiss. But apart from the question whether this is a case of dismissal, that power cannot be exercised if a different intention appears in the Act. Section 20 of the Matadars Act, 1887 provides that if a deputy may be appointed for office during the said term another deputy may be appointed for the residue of the said term e in accordance with the provisions of sections 21 and 22. Section 30 lays down that an officiator can be suspended or removed from office for misconduct. These provisions clearly imply that deputy cannot be removed from office during the termof his appointment unlesshe becomes an disqualified under section 30(i) or he is guilty of misconduct.

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It follows therefore that section 16 of the Bombay General Clauses Act cannot be availed of since a different intention can be clearly implied by the provisions of sections 26 and 30(1) of the Mamlatdars Act. The Act will have to be amended if Government desired to take power to remove deputies for good and valid reasons.

Sd/- P.B.Moos
5-7-45

Remembrancer of Legal Affairs.

U.O. to R.D .No. 4993, dated the 6th July 1945.

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